

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting an Investigation)
into the Carrier Contribution)
Factor and Telecommunications)
Relay Services Fund Size for)
the period of July 1, 2009)
through June 30, 2010.)
_____)

DOCKET NO. 2009-0095

ORDER INITIATING AN INVESTIGATION
REGARDING TELECOMMUNICATIONS RELAY SERVICES

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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Public Utilities Commission

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OF THE STATE OF HAWAII

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ORDER INITIATING AN INVESTIGATION
REGARDING TELECOMMUNICATIONS RELAY SERVICES

By this Order, the commission initiates an investigation to examine whether to modify the current Telecommunications Relay Services ("TRS") carrier contribution factor and fund size for the period July 1, 2009 to June 30, 2010 (the "Period"). The commission proposes to increase the existing carrier contribution factor from 0.0008 to 0.0012 for the Period. In addition, the commission proposes a fund size of approximately \$138,415 which represents an approximate 1.675 month operating reserve for the fund. Written comments concerning these proposals will be accepted until May 20, 2009.

I.

Investigation

The TRS carrier contribution factor and fund size were initially established in accordance with Order No. 20193, filed

on May 23, 2003, in Docket No. 03-0058 ("Order No. 20193"),¹ and updated by Order No. 21049, filed on June 10, 2004, in Docket No. 04-0070, by Decision and Order No. 21847, filed on May 31, 2005, in Docket No. 05-0088, by Order No. 22536, filed on June 16, 2006, in Docket No. 2006-0126, by Decision and Order No. 23481, filed on June 7, 2007, in Docket No. 2007-0113, and by Decision and Order filed on June 27, 2008 in Docket No. 2008-0089 ("Decision and Order filed on June 27, 2008").

Order No. 20193, among other things, required every telecommunications carrier providing intrastate telecommunications service in Hawaii to contribute to the TRS fund on the basis of gross operating revenue from the retail provision of intrastate telecommunications services during the preceding calendar year.² A carrier's contribution to the TRS fund is a product of its gross operating revenues from the retail provision of intrastate telecommunications services during the preceding calendar year and a contribution factor determined

¹In Docket No. 03-0058, the commission selected Sprint Communications Company, L.P. ("Sprint") as the exclusive provider of intrastate TRS within the State of Hawaii ("State") from July 1, 2003 to June 30, 2006. See Decision and Order No. 20163, filed on April 30, 2003, in Docket No. 03-0058 ("Decision and Order No. 20163"); Order No. 20193. By Order No. 22438, filed on May 1, 2006, in Docket No. 03-0058 ("Order No. 22438"), the commission extended Sprint's provision of TRS for an additional two years (from July 1, 2006 to June 30, 2008), and approved a price increase for Sprint's services under the extended period. On March 4, 2008, the commission selected Sprint to continue to be its TRS provider. The price per session minute for TRS and Captel Relay Service ("Captel") remained at \$1.90, however, the fixed monthly recurring charge was increased from \$34,000 to \$38,000 per month.

²The commission explicitly excluded payphone providers from contributing to the TRS fund.

annually by the commission, consistent with the terms of Order No. 20193.

Accordingly, consistent with the terms of Order No. 20193, and pursuant to Hawaii Administrative Rules ("HAR") § 6-61-71,³ the commission will institute an investigation of the annual TRS contribution factor and fund size for the Period. For the same reasons stated in Order No. 20067, filed on March 7, 2003, in Docket No. 03-0058, the commission concludes that the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") and the current service provider, Sprint, should be made parties to this proceeding.

II.

Proposal

A.

Proposed Carrier Contribution Factor

Pursuant to Decision and Order No. 20163 and Order No. 22438, Sprint provided statewide TRS at a flat rate of \$1.90 per session minute, with a monthly recurring charge of \$34,000, for the two-year period commencing July 1, 2006 and ending on June 30, 2008. On March 4, 2008, the commission selected Sprint to continue providing TRS services from July 1, 2008 to June 30, 2011 at the same flat rate of \$1.90 per session minute, with a monthly recurring charge of \$38,000 per month. Under

³HAR § 6-61-71 allows the commission to investigate any matters subject to its jurisdiction.

current conditions, if the surcharge remains unchanged at 0.0008, the commission anticipates a deficit of \$104,385 in the reserve as of June 30, 2010.

Sprint is projecting a monthly average of 8,938 intrastate minutes and 14,551 CapTel⁴ minutes, for a total of 23,489 billable minutes per month, resulting in \$82,629.10 per month, or \$991,549.20 annually to Sprint.

1.

Minutes of Use Have Decreased

The average monthly billable minutes has shown steady reductions. During the first five full years of operation, Sprint's intrastate and CapTel average monthly billable minutes has continued to decrease as shown below:

<u>Period</u>	<u>Total Average Minutes</u>
2003-2004	41,660
2004-2005	40,970
2005-2006	35,132
2006-2007	31,450
2007-2008	24,607

The decline in billable minutes has resulted in an average decline in monthly invoices during the first five years from \$79,154.73 (2003-2004) to \$46,754.09 (2007-2008) (usage portion only). During the first eight months of the current period, the average minutes of use, 22,478, and the average monthly invoice, \$79,707.60 (includes non-usage charges), have continued to show a decline in traditional TRS and CapTel minutes. Sprint's minutes

⁴CapTel is a form of TRS that utilizes specialized equipment and voice-to-text technology to provide relay services.

of use forecast for the 2009-2010 contribution period include 8,938 TRS intrastate minutes and 14,551 CapTel minutes; a total of 23,489 billable minutes per month.

2.

Monthly Disbursements to Sprint

The average monthly invoice to Sprint was \$79,707.60 for the first eight months of the current contribution period. This appears consistent with the average monthly payment to Sprint over the past five years.

<u>Contribution Period</u>	<u>Average Payment to Sprint</u>
2003-2004	\$79,154.73
2004-2005	\$77,843.61
2005-2006	\$66,751.53
2006-2007 (\$34,000 usage chg)	\$93,754.53
2007-2008 (\$34,000 usage chg)	\$80,754.09
5-year average	\$79,651.70
current contribution period average (including \$38,000 usage charge)	\$79,707.60

Based on the above, for the remaining four months in the current contribution period, the commission estimates 23,000 billable minutes per month, resulting in an average usage disbursement to Sprint of \$43,700 per month. Including the non-usage charge of \$38,000, the projected average monthly disbursement to Sprint is estimated at \$81,700.

3.

Projected Retail Revenues

The total amount of revenues reported by all carriers has been quite consistent over the past six years; however, the number of carriers has decreased. For the remaining four months of the 2008-2009 contribution period, absent any significant variations, the commission projects monthly carrier contributions totaling \$38,458.35. To analyze the 2009 to 2010 period, the commission utilized an average of the previous three years to project total expected revenues. The average three year collection of monthly assessments was \$43,981 per month, thus the commission estimates that \$607,000,000 is a reasonable projection of gross retail revenues for the Period.

4.

Reserve Account

At the end of the 2008-2009 contribution year, a reserve of \$401,563.93 is projected. The commission's prior projection, was that the reserve account would decrease to \$332,103 by June 30, 2009. Although the commission allowed 61% of the reserve account to be used to subsidize carrier contributions in the 2008-2009 period, it projects to end the Period with \$69,460.43 more than expected. This excess is due in part to Sprint's projection of 25,153 billable minutes compared to the average 22,478 thus far this Period.

The sole source of funding for the TRS statewide services comes from the TRS fund; therefore, its reserve amount

determination is significant. It is essential that there be adequate revenues and reserves throughout the year to compensate Sprint timely and to address any unforeseen circumstances. It is also a lengthy process to adjust the surcharge during the year. While the commission would have preferred a reserve amount for the Period similar to the 2008-2009 period, given the current economic conditions, the commission proposes a 1.675-month reserve amount. In order to achieve this amount of reserves, the carrier contribution factor must be increased to 0.0012.

B.

Proposed TRS Fund Size

The commission proposes keeping in reserve approximately \$138,415, representing an approximate 1.675-month operating reserve in the fund. The TRS fund is the sole source of funding for this service. Thus, the commission must be able to address any unexpected growth in TRS usage, delinquencies and bankruptcies of any telecommunications carrier and any other unexpected event that may occur.

C.

Proposed Minimum Payment and Payment Plans

The proposed minimum payment would increase commensurately to \$12.00. Under the commission's proposal, carriers reporting \$10,000 or less in gross intrastate retail revenues would pay \$12.00. Carriers reporting \$1,000,000 or more in gross intrastate retail revenues would be allowed to make

twelve (12) equal monthly payments. Carriers reporting less than \$1,000,000 in gross intrastate retail revenues would make one annual payment by July 26, 2009.

III.

Orders

THE COMMISSION ORDERS:

1. A proceeding is instituted to investigate the TRS carrier contribution factor and fund size for the Period (July 1, 2009 through June 30, 2010). The Consumer Advocate and Sprint shall be parties to this proceeding.

2. Written comments to the proposals described in this order will be accepted until May 20, 2009.

DONE at Honolulu, Hawaii MAY - 5 2009.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

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2009-0095.cp

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